

APPENDIX P

List of Suggested Recommendations from Commission Members

**Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions
(Resolve 2021, ch. 59)**

**Suggested Recommendations from Commission Members
(UPDATED: 11/12/2021 10:17 AM)**

<u>Accessory Dwelling Units (ADU's)</u>	<u>Suggested by</u>
<ul style="list-style-type: none"> Permit Accessory Dwelling Units (ADU's) by Right: The Maine Legislature should follow New Hampshire's example and require that ADU's be permitted with limited regulation in all single-family zones. 	Commissioner Levine
<ul style="list-style-type: none"> Support and recommend final passage of L.D. 1312, An Act To Remove Barriers to Accessory Dwelling Units and Allow Accessory Dwelling Units where Single-family Houses Are Allowed concerning accessory dwelling units (carried over on the Special Appropriations Table). 	Speaker Fecteau Commissioner Hill Commissioner Totman
<ul style="list-style-type: none"> Amend/adopt ordinances to allow for the construction of accessory dwelling units (ADU), but give communities latitude to implement land use regulations that impact their scale, location and environmental impacts. 	Commissioner Dufour
<ul style="list-style-type: none"> Legalize accessory apartments 	Commissioner Jackson
<ul style="list-style-type: none"> Permit ADUs by right, including options for mobile ADUs, such as tiny houses, small mobile homes, and granny pods 	Commissioner Golek

<u>Single/Multi-Family Zoning</u>	<u>Suggested by</u>
<ul style="list-style-type: none"> Elimination of single-family zoning restrictions in residential zones across the state; allowing up to four residential units on all lots. With a sunrise clause to provide adequate time for municipalities to prepare for this change. 	Speaker Fecteau
<ul style="list-style-type: none"> Encourage the construction of 4-unit housing (see Rep. Arata's other recommendations for suggested strategies to accomplish this goal) 	Representative Arata
<ul style="list-style-type: none"> Place a referendum on each town's ballot for the June, 2022, election that states that a 4-unit multifamily home will be permitted on any lot where a single family home is allowed, subject to the same setback, frontage, etc. zoning ordinances. 	Representative Arata
<ul style="list-style-type: none"> Permit up to four units in single-family housing districts when public health and safety criteria are met (similar to sb 9 in California) 	Commissioner Jackson
<ul style="list-style-type: none"> Eliminate single-family zones, thereby allowing for the development of mixed housing options in all residential areas. 	Commissioner Dufour
<ul style="list-style-type: none"> Prevent zoning that caps the number of multi-family housing units 	Commissioner Jackson
<ul style="list-style-type: none"> Address Exclusion through Single-Family Zoning Districts: The Legislature should set a standard that any "single-family zone" in communities over a certain size allow at least two housing units on every conforming lot. The details of such a proposal are important, as it is easy to find other ways to limit housing production, through tools such as lot area per dwelling unit, or parking requirements. There could be other reasonable regulations related to use intensity and public health, such as rules on septic systems and water supply. 	Commissioner Levine
<ul style="list-style-type: none"> Municipalities should be required to set-aside a certain percentage of its area for affordable, denser housing options free from regulatory or financial barriers (single family and multifamily). 	Director Brennan

- Tie application scoring for infrastructure grants to zoning that allows multifamily property and higher housing density, especially where there is public water and sewer. Representative Arata
- Amend state statutes to allow for more dense development, when deemed environmentally sound, on properties served by private wastewater and drinking water systems. Commissioner Dufour

Fair Housing

Suggested by

- Add exclusionary zoning as a violation of Maine's fair housing statute. This would effectively trump an incentive program as any exclusionary zoning policies on the books in any municipality would be a violation of this Act. This would require a section be added to the law [here](#). Speaker Fecteau
- Emulate the Desegregate Connecticut policy, which sets the standard that zoning laws must: “affirmatively further fair housing,” language inspired by a related federal fair housing rule; promote housing choice and economic diversity in housing, including housing for both low and moderate-income households; address significant disparities in housing needs and access to educational, occupational, and other opportunities; expressly require the development of housing the state's consolidated plan for housing and community development says we need. Commissioner Jackson
- Reduce the fear factor for becoming a landlord. Require Pine Tree Legal to represent landlords as well as tenants to achieve mutually beneficial outcomes. Require the Maine Human Rights Commission to work with landlords on restorative justice rather than financial penalties for those who unwittingly violated fair housing laws. Representative Arata
- Racial equity should be driven by Legislative action, applicable across the entire state. Director Brennan
- Racial Equity Analyses to accompany zoning and other major land use regulations Commissioner Golek
 - The logic of racial equity analyses is similar to the logic of Environmental Impact Statements or Fiscal Notes. And it is the same logic behind the racial impact statements that will soon be available as part of the legislative process in Augusta.
 - The scope of racial equity analyses could include how the costs and benefits of a zoning or land use action are likely to be distributed across racial/ethnic groups, the risks of displacement disaggregated by race/ethnic group, and how the proposed action would impact current residential segregation patterns.
 - As an example, imagine a low-density town that is rezoned to allow increased density. The rezoning is part of a proposed development that will include new market rate units. An Environmental Impact Statement would require the developer to show how the new development will impact the environment, considering impacts on sensitive land uses, air quality and the like. A racial equity analysis would look at the likely racial composition of the new development, whether or not displacement was likely to occur, and if so in a racially disparate manner. The analysis would also take into consideration how the

anticipated demographic composition of the new development would influence existing residential segregation patterns.

- Some cities have begun to implement policies that require explicit consideration of proposed developments’ impacts on racial equity. For example, New York City is adopting a law requiring the anticipated impacts on racial equity be documented for large-scale housing projects that require city approval. Seattle’s comprehensive planning efforts include a focus Growth and Equity Analysis as part of their decision-making process for rezoning.

Technical Assistance

Suggested by

<ul style="list-style-type: none"> • Create a State Technical Assistance Office on Housing and Zoning: There should be a state office that provides grants and direct technical assistance, or assistance through regional planning organizations, for communities who wish to update their zoning and other local ordinances to increase housing production. This office could also look at tools such as Community Land Trusts and assist communities in creating local Housing Trusts 	Commissioner Levine
<ul style="list-style-type: none"> • Provide municipalities with access to housing data and best practices necessary to make short-term and long-term housing development decisions, prioritizing residential growth in areas where infrastructure exists. 	Commissioner Dufour
<ul style="list-style-type: none"> • Solidify and emphasize its role in providing guidance and technical and financial assistance to help communities achieve their planning goals, including an assessment of progress. This, in part, should include the development of model programs and ordinances for local implementation. 	Commissioner Dufour
<ul style="list-style-type: none"> • Develop citizen education programs to assist local leaders in explaining why changes are necessary for future growth and economic vitality. 	Commissioner Dufour
<ul style="list-style-type: none"> • Help fund the costs associated with reviewing and amending local ordinances either through direct financial assistance or technical assistance or a combination of the two. 	Commissioner Dufour
<ul style="list-style-type: none"> • Develop, implement and manage programs to ensure that housing remains affordable over the long-term with particular assistance provided to communities that are interested in creating dedicated affordable housing, but do not have the administrative or programmatic means to ensure affordable housing compliance over time. 	Commissioner Dufour
<ul style="list-style-type: none"> • Develop creative financial tools to assist communities to meet housing goals (e.g., tax increment financing, local option sales tax, the sheltering of value associated with new housing development in the distribution of revenue sharing and assessment of county and school taxes, homestead exemption benefit for residents that use ADU as long-term rentals, dedicated portion of real estate transfer tax revenue, etc.). 	Commissioner Dufour
<ul style="list-style-type: none"> • Create a permanent state study/assistance office on zoning and housing to further research, provide educational materials, models, and training to municipalities 	Commissioner Jackson
<ul style="list-style-type: none"> • Require DECD to fund and staff a program to provide technical assistance to municipalities for zoning and related municipal guidance which will enhance affordable housing opportunities for households with median incomes at or 	Commissioner Totman

below 80% of median income. Preference will be to assist municipalities with populations less than 20,000.

- Planning and Technical Assistance funding is most efficiently spent for a specific project, rather than the creation of an office. If anything, financial support for existing regional planning commissions should be considered over the creation of a statewide office. Director Brennan

Incentive Programs/Density Bonuses

Suggested by

- The creation of the "You're Home" (name is a work in progress) municipality incentive program. Qualifying communities must make a commitment to reviewing zoning and land use restrictions in Year 1; adopt home-friendly policies in Years 2 and 3. Qualifying communities will receive a state financial reward for up to 3 years, so long as they remain in good standing with the program requirements. MaineHousing Authority will be charged with administering the program qualifications and model zoning policies for municipal reference. DAFS will be charged with administering the incentive. Speaker Fecteau
- Communities that move forward with a PDA as outlined above should be eligible to access new sources of revenue, either from the state, transfer taxes, and/or through local options. Commissioner Levine
- Create programs and incentives that are funded with State resources, rather than property taxes and other local revenue. Commissioner Dufour
- Add a Density Bonus for any Below-Market Affordable Housing Production: The Legislature should create a statewide system that would provide density bonuses by right for below-market affordable housing development. Such a system would allow below-market affordable housing developers to compete financially for developable sites. Commissioner Levine
- Require municipalities to adjust their zoning to provide density bonuses for affordable housing which serves persons at or below 80% median in order for the municipality to be eligible for Department of Transportation funding. Commissioner Totman
- Create a statewide Vacant Apartment Acquisition Program (VAAP) Commissioner Golek
 - Legislation that would authorize state funding for lump sum payments available to the owners of existing apartments in return for making an apartment affordable for 30 years.
 - Such a program could reduce rents at levels that are more affordable than those in Low-Income Housing Tax Credit (LIHTC) projects. With new affordable housing units requiring public subsidies of \$250,000 on average for each one-bedroom apartment, and with several years spent in the approval and construction process, the VAAP could quickly produce affordable units at less cost and reduce market rents to affordable levels.
 - This program would enable lower income households to access housing in high opportunity areas, where average rents are higher than the statewide averages. By restricting VAAP to wealthier, higher opportunity city neighborhoods and suburban areas, the program would

affirmatively further fair housing and prevent poverty concentration and reduce segregation in housing and schools.

- VAAP would also be an ideal tool used in conjunction with a mobility assistance program that is tasked with locating affordable housing units for voucher holders in more affluent city neighborhoods or suburban areas.
- In addition, VAAP could be used by any multifamily property owners, from existing two- and three-family homes to large apartment buildings. To avoid a concentration of affordable units, landlords of rental buildings of more than four units could not reserve more than 25% or 25 units, depending on which is less, of their building's apartments for VAAP.
- The program would target naturally occurring vacancies so as not to encourage removal of existing tenants, and the landlord would have to demonstrate that the tenant vacated the apartment voluntarily, which is routinely done in the acquisition of federally subsidized units, or was evicted for good cause, such as non-payment of rent.
- The subsidy would be secured by a performance mortgage and deed restriction placed on the property for 30 years, insuring that the unit would remain affordable.
- The rent would be adjusted annually based on the HUD rent guidelines for units at the targeted AMI.
- Details regarding the criteria for high-opportunity areas where the program would focus VAAP resources, tenant selection, affirmative marketing, unit inspections, etc. would need to be fleshed out.

Housing Trusts

Suggested by

- Create a Statewide Framework to Encourage Housing Trusts: The Legislature should create a state framework for creation and funding of local Housing Trusts, which can help leverage other funding sources through direct local investment. Local housing trusts could also be authorized to collect impact fees for housing from commercial development through state legislation. Finally, considerations should be given to a state match to local Housing Trust investment.
- Where necessary, assist communities in developing and implementing regional housing solutions, including the creation and funding for housing trusts to encourage private/public investment in housing.

Commissioner Levine

Commissioner Dufour

Priority Development Areas (PDA's)

Suggested by

- Create a System of "Priority Development Areas" (PDA's): Each community should have the flexibility to decide where they would like to focus their housing production. While the current rules governing Comprehensive Plans provide some framework, it has few incentives or requirements. Each community over a certain size should be expected to designate a reasonably sized area as their PDA. In a PDA, multifamily housing would have to be permitted at a minimum density without significant regulatory hurdles. These

Commissioner Levine

areas would be prioritized for state investment, and state review of projects in PDA's would be expedited, provided the community updates its local zoning and other ordinances to encourage development in PDA's.

- Require communities to designate priority development areas, but retain local authority to designate the location, type (e.g., duplexes, triplexes, row houses, multi-story, shared housing, etc.) and scale of multi-unit development authorized in the area. Commissioner Dufour

Fees

Suggested by

- Reduce impact fees for certain low-to-moderate income housing developments. Commissioner Dufour
- Prevent zoning that charges unreasonable or different fees for multifamily affordable housing, or impose onerous consulting fees on property owners Commissioner Jackson

Income Requirements

Suggested by

- Eliminate zoning provisions that include income requirements. Commissioner Dufour
- Prevent zoning that discriminates on the basis of income source (including public assistance), income level, or "immutable characteristics" (other than age and disability). Commissioner Jackson
- Require any development greater than 20 units to set aside 10% of the units to be priced so as to be affordable to persons equal or less than 100% of median income for homeownership developments and 80% for renter occupied developments. Commissioner Totman

Lot size & Parking Requirements

Suggested by

- Reduce minimum lot sizes and relax parking requirements to support diversity of housing sizes and types Commissioner Dufour
- Cap parking mandates Commissioner Jackson

Miscellaneous and Additional Suggestions

Suggested by

- Repeal building codes that increase costs disproportionately to any improvement of safety or energy efficiency. Representative Arata
- Eliminate the state subdivision law for existing structures. Representative Arata
- Provide municipalities the flexibility to develop ordinances that meet locally adopted housing goals. Commissioner Dufour
- Support [LD 1084 \(HP 799\)](#) "An Act To Authorize a General Fund Bond Issue To Create Energy-Efficient and Affordable Homes for Maine People" sponsored by Representative Victoria Doudera. Commissioner Hill
- Prevent zoning that requires that housing units to be minimum square footage, except for public health reasons like those enshrined in building and housing codes. Commissioner Jackson
- Adjust the affordable housing TIF program. Rather than capture the increased value of an affordable housing development (difference between original and post development assessments) capture the difference between one half the original and post development assessments. Additionally, adjust the targeting of Commissioner Totman

the affordable housing targeting to 100% or less of median income. Alternatively tie the TIF programs to municipalities with affordable housing zoning density bonuses. For instance to be eligible for economic or housing TIFs or transportation funding, a municipality must establish affordable housing density bonuses within their zoning.

<ul style="list-style-type: none"> Emulate the Desegregate Connecticut policy, which eliminates the terms “character,” “overcrowding of land,” and “undue concentration of population” from state law as legal bases for zoning regulations and allows towns to consider only the “physical site characteristics” of a district. 	Commissioner Jackson
<ul style="list-style-type: none"> Emulate Chapter 126a of Connecticut General Statutes and Massachusetts chapter 40b: Enable developers to challenge denials of proposed new developments that contain affordable housing. 	Commissioner Jackson
<ul style="list-style-type: none"> Pass a law similar to New Hampshire’s RSA 674:58-:61. This law was passed in 2008 and requires every community to provide “reasonable and realistic opportunities” for the development of workforce housing (RSA 674:59). I think we should add seniors to the workforce requirement and indicate the housing must be targeted to persons at or below 80% median income. 	Commissioner Totman
<ul style="list-style-type: none"> Look to highlight best practices from municipalities that have embraced good concepts and have actually succeeded (Auburn). 	Director Brennan
<ul style="list-style-type: none"> If the Commission is going to avoid the status quo, it should consider bold legislative recommendations to ensure meaningful debate occurs as a result. 	Director Brennan
<ul style="list-style-type: none"> Require municipalities to establish limitations on Airbnb residences 	Commissioner Totman
<ul style="list-style-type: none"> Create a statewide Equitable Share Housing Plan and establish a minimum affordable housing goal for every community <ul style="list-style-type: none"> Legislation that would mandate that every community work to ensure that at least 10% of its existing housing stock is affordable (60% AMI cap for rentals and 80% AMI cap for homeownership). Allow towns to use averages to achieve AMI caps (for added flexibility). The plan would encourage the development of affordable housing in all areas, expanding housing choice and preventing poverty concentration and segregation. The program would offer financial incentives to develop housing that reaches lower income bands as well as supportive, accessible, and integrated housing opportunities for people with disabilities and those who are experiencing homelessness. Success will require proper messaging to explain the benefits for communities accepting an equitable share of affordable housing, along with providing successful examples of various types of affordable housing developments (e.g., mixed income, supportive housing, accessible, etc.). 	Commissioner Golek
<ul style="list-style-type: none"> Create a statewide Housing Appeals Board (HAB) <ul style="list-style-type: none"> The HAB would have the authority to: <ul style="list-style-type: none"> Override local zoning decisions when it appears a decision is effectively limiting or excluding viable affordable housing proposals from being developed; and Fast-track viable affordable housing proposals that have zoning as-of-right but meet with costly or unreasonable delays, often fueled by local opposition. 	Commissioner Golek

- The HAB would be appointed by the State Legislature and shall include representatives of populations utilizing affordable housing, including homeless populations, people with disabilities, etc.
- One measure the HAB would consider is whether the neighborhood or community involved in the dispute has met its minimum goal under the Equitable Share Housing Plan referenced above.
- The HAB could also look at the supply of affordable housing within a neighborhood or community.

Agricultural/Environmental Recommendations¹

Suggested by

<ul style="list-style-type: none"> ● Launch a public education effort to remind communities that we, as U.S. citizens, are party to the Universal Declaration of Human Rights (UDHR), recognizing adequate housing as a component of the human right to an adequate standard of living. Emphasize how housing is an essential component for an individual’s progress toward self-sufficiency and away from dependency. 	Commissioner Spalding
<ul style="list-style-type: none"> ● Engage Department of Agriculture, Conservation and Forestry (DACF) and county Cooperative Extension offices in comprehensive assessment of farmworker housing needs and subsequent plan to improve existing farm housing stock and create new affordable housing for farmworkers. 	Commissioner Spalding
<ul style="list-style-type: none"> ● Put special emphasis on providing housing for seasonal and migrant laborers who are essential for the success of Maine farm businesses at specific times of year in specific sectors. One option would be providing mobile housing units that could be moved along with the communities of farmworkers serving different sectors around the state. Units meeting basic needs (bedrooms and bathrooms) could plug into modules with communal utilities and amenities (kitchens, dining areas, dining areas etc.) Seasonal and migrant labor needs in agriculture could be considered in relation to other sectors or the economy that also have peaks and valleys in labor needs, <i>e.g.</i> tourism. 	Commissioner Spalding
<ul style="list-style-type: none"> ● Ensure that housing initiatives for farmworkers take into consideration the needs of migrant farmworker families with children. Provide daycare opportunities. 	Commissioner Spalding
<ul style="list-style-type: none"> ● Provide transportation systems for farmworkers to help them get to work, to commerce centers for food and personal provisions, and participate in social activities. 	Commissioner Spalding
<ul style="list-style-type: none"> ● Similarly engage Maine’s regional planning offices (ensuring coverage of counties without a Council of Governments) in discussions about farm worker housing needs. As Kristina Egan from the GPCOG had suggested in last week’s meeting, \$200k per planning office per year would go a long way to helping assessments and planning strategies. 	Commissioner Spalding
<ul style="list-style-type: none"> ● Engage the DACF to use its assessment of prime farmland soils and soils of statewide importance to inform decisions about ongoing and future siting of housing developments. This is not to suggest a strict separation of open space and farmland from farm housing. We obviously need housing in rural areas to support the farm economy. Incentives should be provided to builders that commit to providing housing for farmworkers while planning carefully on siting to preserve our agricultural soils. 	Commissioner Spalding

¹ Submitted by Commissioner Spalding during the 6th meeting, but not included in the discussion document used at that meeting

- Establish a fund to provide grants to Maine farmers to make environmental and energy improvements to their homes and to build environmentally friendly, climate-smart housing for farm workers. Commissioner Spalding
- Fund development of multi-family housing units in areas with greatest need for agricultural workers. Coordinated support could come from USDA and HUD to establish these complexes. A success story along these lines is in Milbridge, where Mano en Mano worked to establish Hand in Hand Apartments to help migrant farm workers settle in Downeast Maine. Commissioner Spalding
- Ensure racial equity is elevated and honored in all projects to increase affordable housing for farm workers. Commissioner Spalding
- Restore the Home Energy Assistance Program (HEAP) formula to the iteration when it allowed farms and home-based businesses to claim property depreciation and increase eligibility for heating assistance. Commissioner Spalding
- Provide incentives for builders to use Maine-produced, environmentally friendly, climate-smart materials in construction of affordable housing to ensure that low-income citizens are not subject to toxic materials commonly used in development projects. New science is showing that chemicals commonly used in homes are resulting in billions of dollars of medical bills, millions of IQ points, and disproportionately impacting the health of children, communities of color, low-income families, and other vulnerable populations. Commissioner Spalding
- Assess the formulas for determining the costs of affordable housing. Funding must keep pace with the cost of labor and appropriate (healthy, safe, locally derived, environmentally friendly, climate-smart) building materials. Commissioner Spalding
- Take stock of rural motels that have gone out of business and refurbish them or rebuild on their footprints with green design standards. Provide incentives for communities/builders to refurbish these facilities with the goal of providing housing for farmworkers. Commissioner Spalding